

3. More Staffing Is Needed On the Southern Border

Just as sufficient infrastructure is necessary to achieve both security and the efficient flow of commerce at the border, it is also necessary for the government to have the appropriate numbers of border agency personnel in order to achieve its trade and security goals. Government officials and community leaders have strongly asserted that staffing levels for all agencies responsible for border security are inadequate. Yet, three years since 9/11, no comprehensive staffing plan has been developed for the border.



In 2002, an independent panel of experts directed by Congress to study the border (the DMIA Task Force) found insufficient staffing was universally recognized as one of the most critical issues to be addressed at our borders.⁸¹ Border entities historically have struggled to strike the balance as to appropriate staffing levels to effectively carry out their mission as part of a comprehensive border strategy. Further complicating this problem, since March, 2004, the DHS agencies involved in border security have been under a hiring freeze, whose consequences have been widely felt on the border. A recent survey by the National Border Patrol Council revealed that nearly two-thirds of officers believe that the hiring freeze has had a negative impact on the ability of DHS to accomplish its vital mission.⁸²

There are many players on the Southern Border that play critical roles in its security. The following discusses their roles as well as their current staffing problems.⁸³

Customs and Border Protection Inspections

Customs and Border Protection (CBP) is the first line of defense responsible for regulating the flow of goods and people across the 43 ports-of-entry at the Southern Border.⁸⁴ Post 9/11, CBP's most important mission is to prevent individuals or cargo that might present a threat from entering the United States at ports-of-entry.

As previously mentioned, in 2002 the DMIA Task Force reported that the number of inspection employees to accomplish this mission has historically been seen as insufficient at ports-of-entry.⁸⁵ Since 9/11, CBP inspections staffing at Southern Border ports-of-entry has increased from 4,371 to 5,102 (as of April 3, 2004).⁸⁶ But this increase is viewed by CBP employees and border organizations as only a first step and not sufficient to address the mounting responsibilities thrust upon CBP in light of additional inspections, record seizures, and an array of new technologies currently being used and anticipated in the near future.

⁸¹ *Op. cit.*, DMIA Task Force Second Report, p.143.

⁸² Statement of T.J. Bonner, President of the National Border Patrol Council, *How Secure are America's Borders? Front-line Border Protection Personnel Speak Out*, August 23, 2004.

⁸³ Customs and Border Protection (CBP) inspectors at ports-of-entry; U.S. Border Patrol that operates between ports-of-entry; U.S. Consulate General Offices in Mexico responsible for issuing visas and Border Crossing Cards; Immigration and Customs Enforcement (ICE) Detention and Removal Operation (DRO) which detain and remove illegal aliens; and within ICE Office of Investigations, the largest investigative arm for DHS. Other agencies such as the Department of Justice (DOJ), U.S. Attorneys Office, which prosecute criminal violations; and the Department of Interior (DOI) responsible for more than 50% of the Southern Borders.

⁸⁴ CBP inspectors are charged with enforcing interdiction related activities at the border to include the apprehension of illegal immigrants, interdiction of illegal narcotics and other contraband, inspecting for agricultural pests and diseases, regulating and facilitating international trade, collecting import duties, implementing export control regimes, and enforcing United States trade laws.

⁸⁵ *Op. cit.*, DMIA Task Force First Report, Executive Summary, p.iii; DMIA Task Force Second Report, p.143. See also, GAO *U.S.-Mexico Trade: Survey of U.S. Border Infrastructure Needs*, GAO/NSIAD-92-56,(Washington, D.C., November 27, 1991).

⁸⁶ CBP Congressional Affairs provided staffing levels on the Northern and Southern Border to the staff for fiscal years 2001, 2002, 2003, ending April 3, 2004.

CBP is conducting more inspections of passengers and goods than ever before, with record-breaking results in arrests and seizures in fiscal year 2003.⁸⁷ In fiscal year 2004, the record pace is continuing.⁸⁸

National Treasury Employee Union (NTEU)⁸⁹ officials in El Paso advised that despite these demands, the number of inspectors has not kept pace and their ports are currently understaffed by 30 to 50%. At the busiest land port in the world, San Ysidro, California, management reported that staffing was at only 70 to 80% of what is currently needed. Laredo management advised they too were suffering from manpower shortages.

Staffing shortages cause an array of concerns at ports-of-entry. Inspectors interviewed reported that staffing shortages often cause traffic lanes to be closed. This impedes the flow of commercial and cargo vehicles, which has a tremendous financial impact on trade, particularly on border towns. Collateral effects include the ecological hazards to travelers, surrounding cities, and port employees as exhaust fumes fester in crowded traffic congestion.

The closing of lanes and resulting back log of traffic has additional consequences to ports-of-entry management which are required to report to officials in Washington reasons for any delay exceeding one hour. Inspectors reported that when these delays increased they felt pressure from management to expedite the inspection process, and several stated there were often instances of “traffic flushing” – a term used to reduce the traffic backlog at prime times by minimal to no inspection.



Congestion at the San Ysidro port-of-entry.

⁸⁷ U.S. House, Committee on Government Reform and House Select Committee on Homeland Security, *Prepared testimony of Robert C. Bonner, Commissioner Customs and Border Protection*, Washington D.C., July 2004.

⁸⁸ *Ibid.*

⁸⁹ The National Treasury Employees Union (NTEU) represents 150,000 federal employees from 30 agencies and departments including CBP officers.

Adding to these staffing shortages, new technology has, and continues to be, deployed at ports-of-entry. Since 9/11, the number of large-scale x-ray scanning systems has doubled. More technology is coming in the near future, to include radiation portal monitors in fiscal year 2005 and US-VISIT at the 50 largest land ports by December 2004.⁹⁰ Despite this continued roll out of needed security technology, DHS officials recently stated that no new staffing was planned in fiscal year 2005 for radiation portal monitor technology or US-VISIT.⁹¹ As noted in a subsequent section, we support these efforts to deploy more technological tools at the ports-of-entry, and note that insufficient funding has been allocated to fully actualize their benefits.



Laredo truck crossing primary inspection booth.

As a consequence of this poor planning, there currently is not enough staff to fully utilize this equipment. Inspectors at several ports reported that some of the devices, including mobile truck X-rays and VACIS machines, were only operated 8 to 12 hours a day due to staffing shortages.⁹² Consequently, any prospective smuggler or terrorist need only wait until the end of these shifts to increase his odds in successfully crossing the border or bringing dangerous material into the country.

⁹⁰ *Op. cit.*, Bonner testimony.

⁹¹ Staff briefing with DHS concerning US-VISIT, July 26, 2004.

⁹² Staff briefing in El Paso, Texas and San Diego, California.

Border Patrol

The U.S. Border Patrol is responsible for patrolling the expansive areas between the ports-of-entry for illegal immigration. Like CBP, they are our first line defense against terrorism and average more than one million illegal immigrant apprehensions a year.

The Border Patrol has increased staffing since fiscal year 2001 from 9,821 agents to 10,951 as of July 2004.⁹³ Despite increases, including those mandated by the Patriot Act, Border Patrol agents at the Southern Border are being re-assigned to the Northern Border and to other initiatives (e.g. Arizona Border Coordination – or ABC initiative). In fiscal year 2005, total Border Patrol staffing is actually being reduced by 15 positions.⁹⁴

Border Patrol agents reported that despite these increases they are currently inadequately staffed to effectively monitor the expansive Southern Border. For example, the McAllen, Texas, Border Patrol Chief stated that his office was authorized 1,700 agents but only had 1,500, with nine agents diverted to the ABC initiative. This is troubling inasmuch as the Brownsville/McAllen Border Patrol Sectors are bearing the brunt of illegal immigration from “other than Mexicans” (OTMs) and people from countries of interest (COI). They report more apprehensions of OTMs and COIs than any other sectors. (This is due to the area being the most direct route to the United States from South and Central America.) The San Diego Sector claimed that it was also understaffed with 2,044 authorized positions but currently staffed at 1,810.

Another staffing deficiency detailed by the Border Patrol offices concerned the desperate need for more support staff. Despite the hiring of an additional 2,600 agents since fiscal year 1999, the support staff for the Border Patrol increased by only 4 positions.⁹⁵ Support personnel are critical for the efficiency of the Border Patrol’s efforts on the border. They are responsible for monitoring an ever-increasing number of technologies to include cameras, underground sensors, radios and computers. These technologies are responsible in some sectors for as much as 60% of all apprehensions.

One support employee explained what this staffing shortage means in terms of his responsibilities. He reported that he is responsible for simultaneously viewing 26 cameras for illegal crossings and notifying agents when he sees any crossings. He is also responsible for notifying agents of buried sensor activations which amount to as many as 100 to 150 alerts an hour. In addition to this, he runs computer checks on all detainees and often serves as radio dispatcher at the same time. He acknowledged that he cannot do all the computers checks requested, which could result in agents releasing or returning illegal immigrants to Mexico erroneously.

⁹³ CBP Congressional Affairs data provided to the staff on August 5, 2004.

⁹⁴ CBP Congressional Affairs data provided to the staff on August 16, 2004, based on fiscal year 2005 budget.

⁹⁵ CBP Congressional Affairs provided yearly agent and support staffing levels to the staff on August 5, 2004.

The United States Consulate General Office in Mexico

One significant aspect of the integrity of the entry/inspection process at the border is to prevent those that present a threat from obtaining a visa to legally enter our country. The State Department at nine Foreign Service posts within Mexico issues principal travel documents in the form of immigrant visas, nonimmigrant visas, and Border Crossing Cards/B-1 and B-2, also referred to as laser visas.

The U.S. Consulate General office in Ciudad Juarez, Mexico, was visited by staff and found this office to be inundated with stifling work loads, overcrowded conditions, and insufficient personnel. There were 13 Consular Officers (six on temporary assignments) to handle more than 400,000 immigrant and non-immigrant applications per year. As a result of 9/11, additional security checks and personal interviews are required for virtually all visa applicants. These demands, plus a hiring freeze and budget restraints, has caused morale issues and may exacerbate previous corruption allegations in this office. It may also encourage others, who would otherwise go through the legal process to enter the United States, to resort to illegal immigration.

One Consular Officer stated that Mexican citizens and other than Mexicans often find it more expeditious to illegally cross the border than to pay the approximate \$100 fee to go through the lengthy administrative processes for a visa. Another Consular Officer recollected an applicant who made application for entry in Mexico, was denied, and later that day served him at a fast food restaurant inside the United States.

The integrity of the legal entry process demands that our consulates be able to efficiently process foreign travelers. In fiscal year 2004, 93 new consular positions were created and 60 new positions have been requested for fiscal year 2005 for the State Department.⁹⁶ There remains a concern that increases will be disproportionately placed in “at risk” areas in the Middle East leaving staffing insufficient to meet demand on the Southern Border.

Immigration and Customs Enforcement (ICE) Office of Investigations

The Office of Investigations is the largest investigative arm of the Department of Homeland Security. Its primary mission is to detect vulnerabilities and prevent violations that threaten homeland security. ICE offices are responsible for investigating a range of issues, including national security investigations; human smuggling; narcotic smuggling; weapons and all other contraband smuggling; export enforcement, such as illegal arms exports or dual use exports; money laundering; commercial fraud; cyberfraud; intellectual property rights, including commercial counterfeiting violations; child pornography; immigration crime; and human rights violations.

⁹⁶ U.S. House, Select Committee on Homeland Security, *Hearings before the Subcommittee on Infrastructure and Border Security*, Prepared testimony of Maura Harty, Assistant Secretary, Bureau of Consular Affairs, U.S. Department of State, January 28, 2004.

From October 1, 2001 to August 13, 2004, the Office of Investigations has hired an additional 157 special agents at the Southern Border.⁹⁷ Despite these additions, in each city visited, ICE management and agents reported that the border offices were being overwhelmed with case work on the Southern Border and due to severe staff shortages compared to investigative case load, there was little time to conduct complex long-term investigations.

For example, in the El Paso office, which leads the nation in cases per agent and seizures, each agent is designated as the “duty agent” as a collateral responsibility to respond to reactive calls every sixth day. During the typical duty assignment, the agent gets 12 new cases. Many times this includes going to a port-of-entry, interviewing witnesses, gathering evidence, arresting and transporting the violator, possibly conducting controlled deliveries, surveillance on additional co-conspirators, presenting the case to the United States Attorneys Office for prosecution, writing reports, seeking intelligence, and possibly preparing for trial.

The agents stated they often cannot keep up with these reactive duty calls and have little to no time to proactively pursue larger more complex investigations. ICE investigations offices also advised that Border Patrol is now referring all illegal immigrant calls for enforcement inside the immediate border area to ICE. One ICE manager advised they are getting more than 80 calls a day concerning illegal immigrants that they cannot answer due to staffing shortages.

Many offices on the border such as Eagle Pass, Falcon Dam, and Presidio are seen as hardship posts. The nearest hospital from the Presidio office is 90 miles away, the nearest shopping mall is 250 miles. There is minimal housing in the area with most border personnel living in government housing or trailers. There are non-existent or substandard community services to support family needs such as schools, medical care, and recreational services. These factors make it difficult to retain personnel.



Example of government housing in Presidio.

⁹⁷ Immigration and Customs Enforcement, Office of Investigations, Congressional Affairs Office provided staffing levels to the staff on August 17, 2004.



Example of government housing in Presidio.

Many agents and several managers suggested these inundated, isolated, and high cost of living offices need to be seen as hardship posts with special considerations such as funded rotation policies for isolated offices and cost of living adjustments for high cost of living offices.

United States Attorneys Office

Although the U.S. Attorneys Offices are in the Department of Justice (DOJ) not DHS, they are a critical part of a comprehensive border strategy. The U. S. Attorneys Offices are responsible for prosecuting a wide variety of federal violations from all federal agencies. This office in each district has considerable discretion in setting policy as to acceptable prosecutorial guidelines. These offices, like most other agencies on the Southern Border, were found to carry an excessive workload.

In fiscal year 2003, criminal cases filed nationwide increased by 6%—the highest number filed in the past ten years.⁹⁸ A staff visit to the McAllen office revealed there are 12 attorneys: six criminal, two civil, one forfeiture, one appellate, and two management. Each criminal attorney handles a staggering case load of 100 to 150 cases at any given time and they indicated that other offices such as Laredo, Texas, caseloads were even greater. Despite increases in case loads, the number of attorneys in the past three years has remained constant.

The lack of staffing often means that certain case categories cannot be pursued for prosecution. In McAllen, as a result of limited resources the U.S. Attorneys Office does not prosecute Intellectual Property Rights (IPR) cases despite the fact that these cases have been used to fund terrorist activity and have a large impact on American jobs.⁹⁹ Also, lacking additional

⁹⁸ U.S. Department of Justice, Fiscal Year 2005, Performance Budget United States Attorneys Congressional Submission, p 13.

⁹⁹Statement of Carol Hallett, Counsel for U.S. Chamber of Commerce at Center for Strategic and International Studies (CSIS) on July 20, 2004. Carol Hallett, former Commissioner of U.S. Customs and current counsel for U.S. Chamber of Commerce, stated Intellectual Property Rights (IPR) cases have funded terrorist activity and is a recognized means of laundering illicit proceeds. These cases cause the loss of 750,000 American jobs and drain \$250 billion a year from the U.S. economy.

aggravating circumstances, they do not prosecute illegal immigrant entry until the violator has been caught 13 times; and minimal resources have limited investigations/prosecutions on important border issues such as bulk currency smuggling.

The Committee staff was briefed by DOJ Headquarters personnel concerning manpower shortages. DOJ officials stated they were currently looking at the Southern Border situation and that several attorney positions were planned for fiscal year 2005 for the ABC initiative but that “nothing significant” was planned for other border locations.¹⁰⁰ These officials also reported there were no plans for additional judges on the border or additional manpower for support such as Pre-Trial Services and Probation and Parole offices.

Detention and Removal Operations

The Office of Detention and Removal Operations (DRO) is a division of ICE.¹⁰¹ The DRO is the final step of the immigration enforcement process and is responsible for detention and removal of unauthorized immigrants from the United States.

In fiscal year 2004, DRO facilities nationwide were funded for 19,444 beds a night although they average 22,500, with approximately 200,000 illegal aliens being detained a year.¹⁰² These overages have created a large funding shortfall that must be absorbed from other areas of the ICE /DRO budget of \$1.3 billion dollars.

The staff visited DRO facilities at El Paso, Texas, at Port Isabel, Texas and San Diego, California. All facilities were holding detainees over the maximum capacities for detention, and with the exception of illegal immigrants mandated by law to detain, all were forced to deny or release illegal immigrants apprehended from custody due to bed space and staffing shortages.

The DRO Service Processing Center facility at Port Isabel, Texas advised that Border Patrol staffing in the area has increased more than five times since 1998, from 300 to 1,700 agents. These increases have lead to additional apprehensions in the area; however, DRO bed space, personnel, and immigration judges have remained constant.

A specific example that illustrates severe shortages at DRO is with deportation officers responsible for facilitating the release of detained aliens on parole, bond, and monitoring aliens' compliance with orders of supervision. A May 2004, GAO report cited one DRO facility with 19 deportation officers responsible for 131,000 cases of nondetained aliens, including 1,200 cases of aliens released on orders of supervision.¹⁰³ This is almost 700 cases per officer.

¹⁰⁰ Department of Justice Headquarters staff briefing to Select Committee on Homeland Security, Washington D.C., July 23, 2004.

¹⁰¹ Divisions of ICE include: Office of Investigations, Office of Air and Marine Operations, Office of Federal Air Marshal Service, Office of Federal Protective Service, and Office of Intelligence.

¹⁰² Statistics provided to the staff by ICE Congressional Affairs in July 2004.

¹⁰³ GAO, *Immigration Enforcement: Better Data and Controls Are Needed to Assure Consistency with the Supreme Court Decision on Long Term Alien Detention*, GAO-04-434, (Washington, D.C., 2004) p. 18.

Nationally the numbers are even worse, 675 deportation officers manage 800,000 active cases or roughly 1,200 cases per officer.¹⁰⁴

As a result of staffing and bed shortages, the vast majority of apprehensions, not mandated by statute to detain, must be voluntarily returned to Mexico or released on bond inside the United States for scheduled immigration/deportation proceedings (approximately 80 to 90% of those released on bond never appear for deportation proceedings). Tremendous numbers of apprehensions are continuing on our Southern Border, however, DRO resources have not kept pace. The fiscal year 2005 DRO budget offers little relief with only an additional 117 beds. (For more details on the DRO situation, please see section 8.)

¹⁰⁴ Victor Cerda, Director of Detention and Removal Operations, briefing to staff of Select Committee on Homeland Security, Washington D.C., August 26, 2004.

More Staffing Is Needed On the Southern Border

Conclusions and Recommendations

To better protect America from terrorism, while maintaining the important economic vitality of the border, we must identify the personnel level necessary to staff our myriad of consular, interdiction, enforcement, prosecutorial, judicial, and detention agencies. Specifically we recommend:

1. The Administration should immediately develop and implement a comprehensive national border staffing strategy that will allow DHS and other agencies to effectively deploy its personnel (inspectors, Border Patrol agents, special agents, and support staff) based on a national threat and vulnerability assessment to prioritize the threats facing our land borders and areas between our ports-of-entry.

2. In the interim, the Administration needs to immediately double the number of CBP personnel; increase Border Patrol agents by at least 3,000; increase the number of ICE special agents by at least 225; increase the number of DRO employees by 541, and increase the staff for the U.S. Consulate General staff in Mexico by 25%. In addition, the Administration needs to increase the support personnel for the various border agencies by at least 25%, with complementary staffing increases made for judicial and prosecutorial offices.

